CITY HALL COUNCIL CHAMBERS
SANTA MARIA, CALIFORNIA
REGULAR MEETING

NOVEMBER 15, 2011

INVOCATION:
Pastor Jim Schettler of First Baptist Church gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:
Councilmember Orach led the Pledge of Allegiance.

CALL TO ORDER:
Mayor Lavagnino called the Regular Meeting of the City Council to order at 6:30 p.m.

ROLL CALL:
MEMBERS PRESENT
Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino.

STAFF MEMBERS PRESENT
City Attorney Trujillo, Police Chief Macagni, Director of Public Works/City Engineer Whitehead, Director of Administrative Services Visé, Director of Utilities Sweet, Director of Community Development Appel, Director of Parks & Recreation Posada, Police Sergeant Flaa, and Chief Deputy City Clerk Perez.

VOLUNTEER OF THE MONTH
Mayor Lavagnino presented a gift to Bob Labastida, the Recreation and Parks Volunteer of the Month for November 2011, for his dedication and commitment in planning and implementing the Autumn Arts Grapes and Grains Car Show.

50TH ANNIVERSARY CELEBRATION
Councilmember Patino read a proclamation congratulating New Hope Missionary Baptist Church on their 50th Anniversary Celebration in the City of Santa Maria on November 20, 2011. The proclamation was accepted by Pastor Henry L. Lewis, Jr. and Agatha Shorter-Lewis.

YOUTH CENTER MONTH
Councilmember Orach read a proclamation declaring the month of December 2011 as Youth Center Month in the City of Santa Maria, and calling upon all residents to celebrate, promote, and participate in the celebratory activities at the Abel Maldonado Community Youth Center. The proclamation was accepted by Guadalupe Gutierrez Arreola, President of the Youth Center Key Club.

PUBLIC COMMENT
Art Foster talked about the Santa Maria High School Race Team and the new All-Girls Race Team. The Girls Race Team members introduced themselves to the Council.

Laurie Tamura talked about a group of people involved in the history of Santa Maria and the establishment of the Santa Maria Valley Developers in 1961. They had a vision of improving the quality of life in Santa Maria in a time of economic challenges. The City is now in the same kind of situation dealing with economic challenges. The Santa Maria Valley Developers transitioned into the Economic Development Association and now the Economic Development Commission who are continuing the vision.

David Biddle talked about problems with his sewer line caused by tree roots. He said he had been told he had to pay for the improvements at approximately $6,000 and submit the bills to the City for possible reimbursement. He did not have the money to do the repairs. He didn't know what to do to get it fixed and needed help. The Mayor directed Utilities Director Rick Sweet to meet with Mr. Biddle.

Ernest Armenta spoke in opposition to Item 3G, providing financial support to Allan Hancock College's sport facility when the City did not have the funds to man the new Fire Station. He talked about the proposed Citizens Review Board and suggested it be made up of police officers only.

CONSENT CALENDAR
Councilmember Cordero requested Item 3G be pulled for comment.

Item 3G – Financial Support for Allan Hancock College
Councilmember Cordero stated he had an opportunity to speak with Recreation and Parks Director Posada about this item and asked him to explain the proposal.

Director Posada explained that the financial support would come from the Parks Development Fund, which could only be used for construction-type projects as well as Residential Development Tax funds, and Quimby fees, which could only be used for parks and park development. The proposal was to pay $62,500 annually over the next four years toward the construction of a new track/soccer/football facility. The reason this project was being picked out for support was because in 2001 and 2006, the Recreation and Parks Commission had a community-leisure-needs assessment done. As part of that assessment, the public identified a place to go and walk as a need. For many years the high school track and college track were available. Those were no longer available for the general public to use. The Commission felt it was a win-win situation and addressed an identified need.

Consent Calendar Items 3A through 3G were approved on motion by Councilmember Orach, seconded by Councilmember Patino, and carried on the following vote:

AYES:	Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino
NOES:	None
ABSENT:	None
ABSTAIN:	None

A. ORDINANCES
The reading in full of all ordinances and resolutions was waived. Ordinances on the Consent Calendar were adopted by the same vote cast at the first reading unless City Council indicated otherwise.

B. MINUTES
The Minutes of the Regular City Council Meeting of November 1, 2011, were approved as submitted.

C. WARRANTS
Warrant Nos. 169179 to 169425 totaling $1,362,212.64 were ordered ratified subject to having been certified as being in conformity with the budget and having been approved for payment by the Director of Administrative Services. Warrant Nos. 168925, 168998, and 169379 were cancelled.

D. PAYROLL
Payment of payroll was ordered ratified subject to having been certified by the proper Department Heads, as shown on records on file in the Department of Administrative Services and having been approved for payment by the Director of Administrative Services.

E. AWARD OF BID
Resolution No. 2011-136 was adopted awarding the bid for Landfill Concrete Drainage Swale, Bid No. 2012/03, and approving a contract with Diani Building Corporation in the amount of $396,474.91.

Resolution No. 2011-136 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING A CONTRACT WITH DIANI BUILDING CORP. FOR BID NO. 2012/03, LANDFILL CONCRETE DRAINAGE SWALE.

F. AWARD OF BID

Resolution No. 2011-137 was adopted awarding the bid for Palisade Drive & Church Street Overlay Project, Bid No. 2012/06, and approving a contract with KAD Engineering in the amount of $227,873.22.

Resolution No. 2011-137 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING A CONTRACT WITH KAD PAVING COMPANY DBA KAD ENGINEERING FOR BID NO. 2012/06, PALISADE DRIVE & CHURCH STREET OVERLAY PROJECT

G. FINANCIAL SUPPORT FOR SPORTS COMPLEX

Resolution No. 2011-138 was adopted approving a recommendation from the Recreation and Parks Commission to provide financial support of up to $250,000 for the new sports facilities at Allan Hancock College in exchange for public use of the facilities and contingent upon successful approval of a Joint Use Agreement with the College.

Resolution No. 2011-138 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING FINANCIAL SUPPORT FOR THE NEW SPORTS FACILITIES AT ALLAN HANCOCK COLLEGE CONTINGENT UPON SUCCESSFUL APPROVAL OF A JOINT USE AGREEMENT WITH THE COLLEGE.

AN URGENCY ORDINANCE AND ORDINANCE ADDING CHAPTER 6-9 TO THE SANTA MARIA MUNICIPAL CODE RELATING TO RESIDENCY REGULATIONS FOR REGISTERED SEX OFFENDERS.

City Attorney Trujillo gave the staff report. The City Council is asked to consider an Urgency Ordinance based on the immediate need to protect the public peace, health and safety, and further to introduce an Ordinance adding Chapter 6-9 to the Municipal Code. A 1998 report by the U.S. Department of Justice found that sex offenders are the least likely criminals to be cured or rehabilitated and the most likely to re-offend, and that they prey on the most innocent members of our society. More than two-thirds of the victims of rape and sexual assault are under the age of 18. In part, because of these facts, on November 7, 2006, the voters of the State of California overwhelmingly enacted Proposition 83, the Sexual Predator Punishment and Control Act (better known as "Jessica's Law"), to better protect Californians, and, in particular, the children of this State, from sex offenders. Proposition 83 enacted Penal Code Section 3003.5(b), which prohibits any sex offender who is required to register with local law enforcement pursuant to Penal Code Section 290 from residing within 2,000 feet of any public or private school, or any park where children regularly gather. Proposition 83 also enacted Penal Code Section 3003.5(c), which specifically authorizes cities and counties to enact local ordinances that further restrict the residency of any sex offender who is required to register pursuant to Penal Code Section 290.

The City recently learned from the Santa Barbara County District Attorney's Office that a court in Placer County has indicated that it intends to recommend placement of a violent sexual predator in the City of Santa Maria at a residence that is located within 2,000 feet of a school. Nevertheless, the court indicated it was able to do so because it interpreted the 2,000 feet requirement to mean "travel" distance rather than lineal feet measured in a straight line. On October 25, 2011, the court issued a formal notice of its intent to recommend placement of this sex offender in the City. A hearing on this notice has been scheduled for December 5, 2011, in Placer County. The District Attorney's Office and the City Attorney's Office will attend the December 5, 2011, hearing in Placer County to oppose the court's recommended placement, but staff does not believe the court will reverse its recommendation unless the City enacts an ordinance clarifying that the measurement method for determining the 2,000 feet requirement is not based on "travel" distance, but rather on a straight line measurement in all directions from the proposed placement residence to the park or school without regard to any structures, roads, or other obstacles. Such an ordinance would force the court to reconsider its recommended placement.

Since the City did not learn of the recommended placement until October 26, 2011, there was insufficient time to introduce and adopt such an ordinance so that it would take legal effect under the regular procedures for enacting ordinances before the December 5, 2011, hearing in Placer County. The regular procedure for enacting

ordinances requires that a proposed ordinance be introduced and, at a later meeting, adopted after a second reading. The ordinance takes effect 30 days after it is adopted. However, Government Code Section 36937 provides that an ordinance may take effect immediately upon passage if necessary for the immediate preservation of the public peace, health or safety, and if passed by a four-fifths vote of the City Council. Staff believes that the recommended placement of a violent sexual predator in Santa Maria within 2,000 feet of a school by the Placer County court has created an urgency and the need for the immediate preservation of public safety.

In addition to adopting the urgency ordinance, staff is recommending that the City Council also adopt a regular ordinance that is identical to the urgency ordinance. Staff is recommending this action in the unlikely event that the urgency ordinance is challenged, in which case, the regular ordinance will become effective and render moot any challenge to the urgency ordinance.

Jamie LaBlanc, Principal of Liberty Elementary School, said she opposed any violent sexual offender being released from prison to reside near her school or the densely populated Westgate Apartment complex across the street from the school. It would affect the safety of children.

Jody Oliver, Santa Maria Bonita School Board Member, said she opposed having any violent sexual offender living close to any of the schools. This would place an additional burden on the schools, on law enforcement, and the neighborhood. Liberty School was within walking distance of three other schools and a major recreation area. She hoped the Council would take the rights of the 14,000 students in Santa Maria into consideration, as well as the rights of the predator.

Sandra Sigala said her family was the victim of a sexual predator. She understood that these people had to live somewhere, but there was no one to speak for the rights of the children. She asked the Council to make the decision for the children. People don't want to talk about sexual abuse. She did not want this person to come to her community and asked the Council to keep the community safe.

Terri Zuniga stated this issue was very important to her on a personal and professional level. This County already had a lot of sexual assault cases, most in the North County. The community was already spending too many resources in this area. She thanked the Council for addressing this. There were many in the community who were willing to mobilize regarding keeping this man out of the City. She asked if the ordinance applied to children who were home schooled.

Ernest Armenta asked what happened to the existing sexual offenders under this ordinance. He felt that sexual predators should not have any rights. He asked why the City didn't have a bulletin board or send out a flyer listing all the sexual offenders in the City.

City Attorney Trujillo explained that the ordinance would not apply retroactively and would only apply to new cases. He indicated that his office would continue to study issues like daycare centers and home schooling sites.
Cassandra Sigala thanked the City for bringing publicity to this issue. She talked about her experience with a sexual offender. She lived in fear for most of her life. She feared for the children because statistics show that sexual predators will reoffend. She said she would do whatever it takes to keep this person from coming to this town.

Mayor Lavagnino stated he agreed with Cassandra, and he would do everything he could to keep this man from coming to Santa Maria. He knew the Police Chief, the City Attorney, and the District Attorney would do the same.

Councilmember Boysen stated that having someone so abhorrent come to Santa Maria was unimaginable. He asked if the City would be seeing more of this due to the early release of prisoners the State was facing and what could be done about it.

City Attorney Trujillo stated every violent sexual predator has to petition the court to be released from incarceration. The jurisdiction that handled that was the Placer County

District Attorney's office. The District Attorney in Placer County decided that he was not opposed to the release of this individual.

Councilmember Patino stated this judge in Placer County was making a decision that would affect Santa Maria, but he didn't have to answer to the citizens of Santa Maria. She thought that was very offensive. This person will offend again, it was just a matter of when. When these kinds of offenses occur, it takes away a person's life. She asked to have a letter drafted to be sent to the judge with very strong language and sent to the newspaper in Placer County so people there would know what kind of person was sitting on the bench. She asked about existing sex offenders who might live near a daycare center.

City Attorney Trujillo stated that Jessica's Law did apply throughout the City of Santa Maria. The reason this case was different was because the Judge applied a strained interpretation of Jessica's Law to find that this location was suitable for the individual. The 2,000 feet prohibition in Jessica's Law did not address daycare centers or home schooling sites. That was an issue that the City Attorney's office would continue to explore.

Councilmember Cordero stated when he first heard about this, he felt the City might be pushing this too fast and there might be loopholes in it. He was assured by the City Attorney that his office would be continuing to review and update the ordinance to address all the concerns. He commended the City Attorney's office and Police Department for getting in front of this and getting the message out to the community.

On motion by Councilmember Patino, seconded by Councilmember Orach, and carried on the following vote:

AYES: Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Urgency Ordinance No. 2011-09 adding Chapter 6-9 to the Santa Maria Municipal Code, relating to residency restrictions for registered sex offenders was introduced, passed and adopted.

Urgency Ordinance No. 2011-09 adopted. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, BASED ON THE IMMEDIATE NEED TO PROTECT PUBLIC PEACE, HEALTH AND SAFETY, ADDING CHAPTER 6-9 TO THE SANTA MARIA MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS.

On motion by Councilmember Cordero, seconded by Councilmember Patino, and carried on the following vote:

AYES: Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Ordinance No. 2011-10 adding Chapter 6-9 to the Santa Maria Municipal Code, relating to residency restrictions for registered sex offenders was introduced by title only for first reading and continued to the next meeting for second reading and adoption.

Ordinance No. 2011-10 introduced. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, ADDING CHAPTER 6-9 TO THE SANTA MARIA MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS.

FINANCIAL REPORT FOR THE FIRST QUARTER ENDING SEPTEMBER 30, 2011, AND A BUDGET AMENDMENT REPORT FOR FISCAL YEAR 2011-12.
Director of Administrative Services Visé gave the staff report. With 25 percent of the year complete, revenues are at 13.4 percent of projections while expenditures are at

20.4 percent of appropriations. Revenues are less than budget primarily because property tax revenue is not received until December and April each year. The City adopted the 2011-12 Budget using approximately $2.7 million in Local Economic Augmentation Fund (LEAF) reserves as the sluggish economy has taken a heavy toll on the City's revenues. The majority of revenues have remained stagnant since the recession officially ended. Sales and Hotel/Bed taxes are the only sources showing increased revenue. However, these increases are offset by declining NHIS revenue. No further revenue would be coming in from the Guadalupe Restoration Project until Chevron amends the EIR to allow additional excavation quantities. The good news is that non-Guadalupe sites have been bringing in greater quantities than normal. In the Water/Wastewater Fund, expenditures exceeded revenues by $3.2 million, primarily due in large part to the semi-annual debt service payment in the first quarter of $5.2 million. There are sufficient reserves in the combined Water/Wastewater Fund to cover the current shortfall. For the first quarter, Solid Waste revenues exceeded expenses by $85,000. He recommended the Council approve the proposed budget amendments.

Ernest Armenta asked if there was any time or effort put into finding a way to man the new Fire Station. He thought every quarterly report should show how the City was going to man the Fire Station before going to the taxpayers to pay for it.

Director Visé stated there was nothing in the Quarterly Report that suggested any kind of financing mechanism for the Fire Department. It was just a report explaining the actual results of the first quarter of 2011-12.

Resolution No. 2011-139 was adopted on motion by Councilmember Patino, seconded by Councilmember Orach, and carried on the following vote:

AYES: Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Resolution No. 2011-139 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING AN AMENDMENT TO THE 2011-12 BUDGET AND AUTHORIZING THE CITY MANAGER TO IMPLEMENT SAME.

CITY MANAGER'S REPORT

City Attorney Trujillo reported on items anticipated for the December 6, 2011, City Council meeting, including a retirement resolution for Chief Deputy City Clerk Perez, resolutions recognizing the service of the Code Compliance Board Members, second reading of Ordinance No. 2011-10, and a public hearing on a proposed ordinance establishing regulations for Development Agreements and setting a fee.

ORAL REPORTS BY COUNCILMEMBERS

Councilmember Cordero reported he attended a luncheon celebrating Philanthropy Month, was out of town on business, and yesterday fed about 120 dinners to the homeless at Good Samaritan Shelter.

Councilmember Orach reported he had to work most of the time, but did attend a LAFCO meeting.

Mayor Lavagnino reported he attended the North County Sub-regional Meeting, the Celebrate Philanthropy luncheon, the Toys for Tots kickoff, the introduction of the new Porsche 911, the Economic Alliance for Northern Santa Barbara County, the CHC Surgical Center dedication, and the Daniel Johnson Street dedication.

Councilmember Patino reported she appeared on the Ben Heighes radio show, attended the kickoff for Toys for Tots, toured the new Marian Hospital, attended the Pioneer Dinner/Dance, the Economic Alliance, a dinner where she was asked to serve on the Education Advisory Council for Brandman University, the Veterans Celebration on Veterans Day, a Run to Remember at Santa Maria High School, the Chamber Transportation Committee meeting, and the Community Partners in Caring volunteer recognition.

Councilmember Boysen reported he attended the Economic Alliance and viewed the movie "spOILED" which points out the importance of oil to our economy. He announced that Wednesday and Thursday would be the joint meeting of the Bringing Our Community Home Committee in Solvang, the Annual Turkey Drive was on Friday, and Good Samaritan Shelter was starting to move families into Rancho Hermosa.

CLOSED SESSION:
The City Council recessed to a Closed Session at 8:05 p.m. to discuss Conference with Labor Negotiator pursuant to Government Code Section 54957.6, Agency Representative: Assistant City Manager; Employee Organizations: Santa Maria Police Officers Assoc. (SMPOA), Service Employees Inter-national Union (SEIU) Local 620, Fire Fighters Local 2020, Public Safety Managers, and Non-Represented Management and Confidential Employees.

After the Closed Session, the following report was given:

Conference with Labor Negotiator: Direction to staff was given.

ADJOURNMENT
There being no further business to come before the City Council at this time, the meeting was declared adjourned at 8:31 p.m. by Mayor Lavagnino in memory of Robert William Haydon, Assistant City Manager Haydon's father, who passed away on Monday.

APPROVED

December 6, 2011
Date

Chief Deputy City Clerk and ex officio Clerk of the City Council

ATTEST

Chief Deputy City Clerk

Mayor